

Tri-Basin NRD
1308 Second St.
Holdrege, NE 68949



Phone: (308) 995-6688
Toll Free: 1-877-995-6688
Fax: (308) 995-6992
Email: tribasin@tribasinnr.org

General Manager
JOHN THORBURN

Chairman
BRADLEY LUNDEEN
Wilcox, Nebraska

October 22, 2004

Vice Chairman
PHYLLIS JOHNSON
Bertrand, Nebraska

Secretary
DAVID OLSEN
Axtell, Nebraska

Treasurer
TODD GARRELS
Holdrege, Nebraska

HAROLD D. ERICKSON
Holdrege, Nebraska

ED HARRIS
Loomis, Nebraska

DICK HELMS
Arapahoe, Nebraska

GARY LINDSTROM
Wilcox, Nebraska

DAVID NELSON
Upland, Nebraska

DAVID NICKEL
Kearney, Nebraska

DAVID RAFFETY
Kearney, Nebraska

LARRY REYNOLDS
Lexington, Nebraska

RAY WINZ
Holdrege, Nebraska

TO: Irrigation Districts
Reclamation Districts
Public Power and Irrigation Districts
Mutual Irrigation Companies
Canal Companies,
Municipalities, and
Surface Water Appropriators

FROM: Bradley Lundeen, Chair
Tri-Basin Natural Resources District

Roger K. Patterson, Director
Department of Natural Resources

Two handwritten signatures are present. The first signature, 'Bradley Lundeen', is written in dark ink and is positioned above the signature of Roger K. Patterson. The second signature, 'Roger K. Patterson', is also in dark ink and is positioned below the first signature.

SUBJECT: Proposed Termination of Stays: Consultation

As you may be aware, the Department of Natural Resources ("Department"), on September 15, 2004, issued an Order Designating Overappropriated River Basins, Subbasins, or Reaches, and Describing Hydrologically Connected Geographic Area (the "Designation"), pursuant to Neb. Rev. Stat. Section 46-713(4) (enacted by LB 962). As a result of the Designation, immediate stays were placed on: 1) the issuance of any new natural-flow, storage, or storage-use appropriations, 2) the issuance of new water well construction permits, 3) the construction of certain new water wells, and 4) the increase the number of acres historically irrigated. These stays apply to the overappropriated area within the Tri-Basin Natural Resources District ("District").

Neb. Rev. Stat. Section 46-714(11) provides that within ninety days after the Designation, a natural resources district ("NRD") may hold one or more public hearings on the question of whether to terminate stays on the issuance of new water well construction permits, on the construction of certain new water wells and/or on use of existing water wells to increase the

number of acres historically irrigated. Prior to the scheduling of such hearing, the Department and the NRD are required to consult with any irrigation district, reclamation district, public power and irrigation district, mutual irrigation company, canal company, or municipality that relies on water from the affected river basin, subbasin, or reach and with other water users and stakeholders as deemed appropriate by the Department or the NRD. This consultation must occur between the time of the Designation, which was September 15, 2004, and December 14, 2004. This particular consultation only concerns the questions of whether stays on the issuance of new water well construction permits and/or construction of certain new water wells imposed pursuant to the Designation should be terminated within the overappropriated area within the District on existing irrigated acres. If you would like to have input as part of this consultation process, please plan to attend a public information meeting scheduled for 1:00 p.m. on November 5, 2004, at the Phelps County Ag Center, 1308 Second Street in Holdrege, Nebraska or contact the Department or the District.

As part of the overappropriated designation, the District will be required to develop an integrated management plan with the Department. One of the statutory requirements of this plan is that any surface water and ground water controls along with any applicable incentive programs that are adopted pursuant to the plan, must protect ground water users whose water wells are dependent on recharge from the river or stream involved and the surface water appropriators on such river or stream from streamflow depletion caused by surface water uses and ground water uses begun after the date of the river basin, subbasin, or reach was designated as overappropriated, which was on September 15, 2004 (Neb. Rev. Stat. 46-715(3)). In other words, any new uses causing depletion to the river resulting from the termination of the stay or stays will have to be accounted for and the impacts mitigated in the integrated management plan. What measures need to be taken by the District and the Department in the overappropriated area will be decided later as part of the integrated management planning process. Statutorily, that planning process could last for up to five years. If you rely on water from the area subject to the Designation, you will be given an opportunity for consultation as part of that planning process.

The hearing on the issue of whether the stay or stays imposed pursuant to the Designation should be terminated is scheduled for 7:30 p.m., Tuesday, November 9, 2004, at the Phelps County Ag Center, 1308 Second Street in Holdrege, Nebraska. A Notice of the hearing has been published as required by law.

Please access the Department's website, <http://www.dnr.state.ne.us/LB962/LB962Implementation.html>, or contact the Tri-Basin Natural Resources District for the current hearing schedule.